

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION
CIVIL NO.: 0:18-1247-JFA

J & J SPORTS PRODUCTIONS, INC.,

Plaintiff,

vs.

AGAVE AZUL, LLC d/b/a AGAVE
AZUL AND FRANCISCO ZARATE,

Defendants.

ANSWER

Defendants Agave Azul, LLC (erroneously identified as d/b/a Agave Azul) and Francisco Zarate (hereinafter “Defendants”), answer the Complaint filed by J & J Sports Productions, Inc. (hereinafter “Plaintiff”), and allege as follows:

All allegations that are not expressly admitted to herein are denied. Defendants respond to the numbered paragraphs of the Complaint below.

1. Answering Paragraph 1, Defendants admit that Plaintiff alleges violation(s) of federal statute(s).
2. Answering Paragraph 2, Defendants do not deny the allegations therein, but do not waive any contentions with respect to subject-matter jurisdiction.
3. Defendants admit that the Court has personal jurisdiction over the parties. The remaining allegations of paragraph 3 are denied.
4. Answering Paragraph 4, Defendants do not deny the allegations therein, but do not waive contentions relating to venue.

5. Answering Paragraph 5, Defendants are without sufficient knowledge or information to either admit or deny the allegations contained therein and therefore deny same and demand strict proof thereof.
6. Answering Paragraph 6, Defendant Agave Azul, LLC admits that it is a South Carolina limited company and operated a restaurant at the referenced address. Except as expressly admitted herein, the remaining allegations of Paragraph 6 are denied.
7. The allegations of Paragraph 7 are admitted.
8. Answering Paragraph 8, Defendants admit that Francisco Zarate was an agent of Agave Azul, LLC, which formerly operated a restaurant that he managed. Except as expressly admitted herein, the remaining allegations of paragraph 8 are denied.
9. Answering Paragraph 9, Defendants admit that Francisco Zarate was manager of the restaurant establishment. Except as expressly admitted, the remaining allegations are denied.
10. The allegations of Paragraph 10 are denied.
11. The allegations of Paragraph 11 are denied.

COUNT I
(Violation of Title 47 U.S.C. § 605)

12. Defendants repeat and re-allege each and every allegation of the preceding paragraph as if fully set forth verbatim.
13. Answering Paragraph 13, Defendants are without sufficient knowledge or information to admit or deny the allegations, and therefore deny same and demand strict proof thereof.

14. Answering Paragraph 14, Defendants are without sufficient knowledge or information to admit or deny the allegations, and therefore deny same and demand strict proof thereof.
15. Answering Paragraph 15, Defendants are without sufficient knowledge or information to admit or deny the allegations, and therefore deny same and demand strict proof thereof.
16. Answering Paragraph 16, Defendants admit that portions of the Program were displayed at the establishment. Except as expressly admitted, the remaining allegations are denied.
17. The allegations of Paragraph 17 are denied.
18. Answering Paragraph 18, the language of the statute speaks for itself, and Defendants deny any and all allegations inconsistent therewith.
19. The allegations of Paragraph 19 are denied.
20. Answering Paragraph 20, the language of the statute speaks for itself, and Defendants deny any and all allegations inconsistent therewith.
21. The allegations of Paragraph 21 are denied.

COUNT II
(Violation of Title 47 U.S.C. § 553)

22. Defendants repeat and re-allege each and every allegation of the preceding paragraph as if fully set forth verbatim.
23. The allegations of Paragraph 23 are denied.
24. The allegations of Paragraph 24 are denied.

25. Answering Paragraph 25, the language of the statute speaks for itself, and Defendants deny any and all allegations inconsistent therewith.

26. The allegations of Paragraph 26 are denied.

COUNT III
(Conversion)

27. Defendants repeat and re-allege each and every allegation of the preceding paragraph as if fully set forth verbatim.

28. The allegations of Paragraph 28 are denied.

29. The allegations of Paragraph 29 are denied.

30. The allegations of Paragraph 30 are denied.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against Defendants upon which relief can be granted.

SECOND DEFENSE

Plaintiff's causes of action fail as a matter of law on the grounds that Plaintiff has failed to mitigate its alleged damages.

THIRD DEFENSE

Plaintiff's claims are barred in whole or part by applicable statute of limitations.

FOURTH DEFENSE

Plaintiff lacks standing to assert the claims contained in the Complaint, to the extent it has failed to demonstrate that it is the owner of the rights alleged.

FIFTH DEFENSE

Plaintiff's claims are barred to the extent the allegedly unlawful use at issue was licensed or otherwise authorized by persons or entities with the right to license or authorize such use.

SIXTH DEFENSE

Plaintiff's claims are barred by the doctrines of estoppel, laches, waiver or unclean hands.

SEVENTH DEFENSE

Plaintiff's claims fail in whole or in part to the extent it has suffered no damages.

EIGHTH DEFENSE

Plaintiff's alleged claims to damages are barred, in whole or in part, by the right of one or more Defendants to a set-off against any such damages.

NINTH DEFENSE

Plaintiff is barred from recovery of damages or other relief to the extent that it or others failed to perform conditions precedent, concurrent or subsequent under pertinent agreements.

TENTH DEFENSE

Defendants reserve the right to assert additional defenses upon discovery of further information concerning Plaintiff's claims.

WHEREFORE, having fully responded to and answered the Complaint of the Plaintiff, Defendants pray that it be dismissed with prejudice, that they be awarded the costs and fees in the lawsuit, and for such other and further relief as the Court may deem just and proper.

Respectfully submitted this 25th day of June, 2018.

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